UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY DAUNT,

Plaintiff,

DOCKET NO. 1:20-cv-522

vs.

JOCELYN BENSON, in her official capacity as Michigan Secretary of State; JONATHAN BRATER, in his official capacity as Director of the Michigan Bureau of Elections; SHERYL GUY, in her official capacity as Antrim County Clerk; DAWN OLNEY, in her official capacity as Benzie County Clerk; CHERYL POTTER BROWE, in her official capacity as Charlevoix County Clerk; KAREN BREWSTER, in her official capacity as Cheboygan County Clerk; SUZANNE KANINE, in her official capacity as Emmet County Clerk; BONNIE SCHEELE, in her official capacity as Grand Traverse County Clerk; NANCY HUEBEL, in her official capacity as Iosco County Clerk; DEBORAH HILL, in her official capacity as Kalkaska County Clerk; JULIE A. CARLSON, in her official capacity as Keweenaw County Clerk; MICHELLE L. CROCKER, in her official capacity as Leelanau County Clerk; ELIZABETH HUNDLEY, in her official capacity as Livingston County Clerk; LORI JOHNSON, in her official capacity as Mackinac County Clerk; LISA BROWN, in her official capacity as Oakland County Clerk; SUSAN I. DEFEYTER, in her official capacity as

Otsego County Clerk MICHELLE STEVENSON, in her official capacity as Roscommon County Clerk; and LAWRENCE KESTENBAUM, in his official capacity as Washtenaw County Clerk,

Defendants.

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TRANSCRIPT OF HEARING ON MOTION TO DISMISS AND

RULE 16 SCHEDULING CONFERENCE

BEFORE THE HONORABLE ROBERT J. JONKER, CHIEF JUDGE

GRAND RAPIDS, MICHIGAN

October 27, 2020

Court Reporter: Glenda Trexler
Official Court Reporter
United States District Court
685 Federal Building
110 Michigan Street, N.W.
Grand Rapids, Michigan 49503

Proceedings reported by stenotype, transcript produced by computer-aided transcription.

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Grand Rapids, Michigan

October 27, 2020

3:57 p.m.

P R O C E E D I N G S

THE COURT: All right. We're here on the case of Daunt against Benson, 1:20-cv-522, at the Rule 16. There are motions to dismiss pending from the State defendants as well as one of the intervenors.

Let's start with appearances and we'll go from there. For the plaintiff?

MR. NORRIS: Good afternoon, Your Honor, Cam Norris for the plaintiff, Mr. Daunt.

THE COURT: All right. Thank you.

And for the defendants?

MS. BRIGGS: Good afternoon, Your Honor, Assistant Attorney General Elizabeth Husa Briggs on behalf of Secretary of State Jocelyn Benson and Director of Elections Jonathan Brater.

THE COURT: All right. Thank you.

For our intervenors who do we have?

MS. BRAILEY: Emily Brailey on behalf of Philip Randolph and Rise, Inc.

THE COURT: Thank you.

MS. PRESCOTT: Good afternoon, Your Honor, Sarah Prescott, local counsel for the same.

MR. DONNINI: And good afternoon, Your Honor, George Donnini from Butzel Long on behalf of the intervenor defendant League of Women Voters.

THE COURT: All right. Thank you.

For today's purposes if you use the microphone right in front of you, you're probably going to be best off. Especially if you want to stay masked, which is fine. It will be easier for us to hear. Just sit down, pull the microphone close. If anybody can't sit down in court -- and I get that, lawyers are not used to sitting down in court -- feel free to walk over to the podium and use the microphone there. Either way.

We're here for the Rule 16, and, of course, that's a scheduling conference. You know, I did want to hear from the parties, especially the moving parties, on the motion to dismiss. We had the original motion to dismiss directed to the initial Complaint. At that time it wasn't clear to me anyway whether the plaintiff would be seeking relief in advance of next Tuesday's election or whether it was simply seeking relief down the road in the fullness of time so to speak.

If I'm understanding it right, Mr. Norris, your relief is directed to, you know, down the road and nothing specific to next Tuesday. Is that right?

MR. NORRIS: Correct, Your Honor.

THE COURT: Okay. Then there was an

Amended Complaint and another response. The reason I bring it up is because, you know, I had reviewed the briefing and case law in that first round, and, of course, now again in the second round, I know the briefing isn't complete, but I have to say it doesn't seem like a hard standing case to me. It seems like somebody like this plaintiff has standing, and if this plaintiff doesn't, I don't know who does under a National Voting Rights Act kind of claim. And, frankly, I think the only National Voting Rights Act case I saw in the briefing from any of the moving parties is one that granted standing ultimately. It was the Texas case. So I want to make sure I understand where the moving parties are going on that, but I'm not inclined, from what I've seen so far, to think that there's much chance of a standing dismissal, at least on Rule 12.

So let me go to Ms. -- is it Ms. Briggs?

MS. BRIGGS: That's fine, Your Honor.

THE COURT: Okay. Pull that forward and make sure I understand at least the essence of where you are on it, and then we'll talk to any of the moving parties on the intervening side who want to address it as well. Go ahead.

MS. BRIGGS: Well, Your Honor, we do believe that Mr. Daunt has not established standing. And I would point you -- I mean, if you're focusing on the Texas case in particular, Mr. Daunt is not -- Mr. Daunt is an individual. He's not --

THE COURT: Well, let me start out with do you have any National Voting Rights Act case other than the American Civil Rights Union case?

MS. BRIGGS: I don't believe so, Your Honor, but we do have cases definitely dealing with --

THE COURT: I get that, but under the NVRA that's the only one I saw. At least that's the only one you can think of right now.

MS. BRIGGS: Okay.

THE COURT: And at the end of the day, at least some plaintiffs had standing in that case, right?

MS. BRIGGS: Not individuals, Your Honor.

THE COURT: I said at least some plaintiffs had standing in that case, right?

MS. BRIGGS: Only the organizations.

THE COURT: So some plaintiffs had standing in that case.

MS. BRIGGS: The organizations, but they did not have the --

THE COURT: Did some plaintiff have standing in that case or not?

MS. BRIGGS: Yes, but not as individuals.

THE COURT: Okay. So if Mr. Daunt joined an organization he could have standing? Is that the position?

MS. BRIGGS: Well, the organization would have to be

the plaintiff.

THE COURT: All right. Anything else on the standing argument from the State defendants?

MS. BRIGGS: Well, we've also argued that we do not believe his letter, the February 26th letter, is sufficient. That he doesn't give sufficient notice as to what his actual -- he doesn't identify any policy or procedure or any -- basically any reason by which the Secretary of State or the director -- why Michigan's general program are not sufficient under the NVRA.

THE COURT: All right. Anything else on the State side?

MS. BRIGGS: Well, we don't believe that a generalized -- we believe basically what he's shown is that -- and what he's alleged is that this is just a generalized grievance. He's just appearing just on behalf as a Michigan voter and there's nothing specific. He's not even alleging to be representative or involved in any politics with respect to the specific counties at issue or that he alleges are showing erroneous, for lack of a better word, erroneous voter registration numbers, so . . .

And Article III standing, Your Honor, does require more than just a generalized grievance about an alleged problem with government activity. It does require a concrete and direct injury. And it does require something that could be

fairly redressable from this Court.

Mr. Daunt is not associated even or does not even allege to be associated with many of the counties that he claims the data showing that there's a problem with. Under the case law, Your Honor, as we briefed, that's a -- standing is a threshold issue, and he's not established standing.

THE COURT: Okay.

MS. BRIGGS: Thank you.

THE COURT: Thank you.

From the intervenors, I don't think that there was a motion from the League of Women Voters, but there were from some of the others. So I don't know who would like to speak on behalf of the moving parties on the intervenor side.

MS. BRAILEY: Your Honor, I can speak. This is Emily Brailey on behalf of Philip Randolph and Rise.

THE COURT: Okay. Thank you.

MS. BRAILEY: We largely agree with what Ms. Briggs has stated. We agree with everything in that motion to dismiss, including about the generalized grievance issue and that plaintiff doesn't have standing.

And I'll add that we also don't think there is an injury in fact about -- related to voter fraud or vote dilution.

THE COURT: Or dilution? Okay.

MS. BRAILEY: Or vote dilution. I think that -- you

know, we rest on the cases we cited in our brief. There's a lot of recent precedent where their complaints can't stand on such small evidence of or no evidence of voter fraud.

THE COURT: Do you have any National Voter Rights Act case? I don't think you cited the Texas case, but --

MS. BRAILEY: That's correct, Your Honor.

THE COURT: But do you have any other National Voter Rights Act case --

MS. BRAILEY: No, Your Honor, but I am happy to provide --

THE COURT: -- on voter registration? Go ahead.

MS. BRAILEY: I'm sorry. I'm happy to provide additional briefing if you would like us to do that.

THE COURT: Do you know if there is any case?

MS. BRAILEY: Not off the top of my head right now.

THE COURT: All right. Thank you.

MS. BRAILEY: And in addition, you know, we also think the remaining factors of standing including causation and redressability cannot be met here.

And on top of that, I mean, I guess you're only asking about standing right now, but we also have the 12(b)(6) failure to state a claim.

THE COURT: Yeah, go ahead. You can touch on that too if you want to.

MS. BRAILEY: So, again, this goes back to vote

dilution and whether that can even be recognized as a claim in this context. And really it's only been addressed in the reapportionment cases. And even if it is recognized outside of those contexts, the plaintiff would need to show at least that he's part of a group that is purportedly having its votes diluted, and that just doesn't appear in this Complaint.

And finally, we echo a lot of what the State has in their motion to dismiss regarding the current list maintenance program and that there's just no evidence in that Complaint that Michigan is not already implementing a reasonable and adequate maintenance program.

THE COURT: All right. Thank you.

I don't know if -- I can't remember, Ms. Prescott, are you representing the League of Women Voters or are you representing the same groups or --

MS. PRESCOTT: The same groups, Your Honor.

THE COURT: Okay. Do you want to add anything on their behalf?

MS. PRESCOTT: No, I don't. Thank you.

THE COURT: All right. And from Mr. Donnini, I didn't see a motion from your clients. Do you want to have anything to say on this? And just stay seated if you do.

MR. DONNINI: Sure, Your Honor. It is a habit of mine.

Your Honor, we did file an Answer. I would just

point out that we believe also -- we believe the arguments in the motions to dismiss that were filed are meritorious. We don't think that this states a valid claim upon which relief can be granted. And that is in our Answer. However, we did file an Answer and we are prepared to move forward if it does survive, but for the arguments that have been made in court and in the briefing, we agree that this case does not state a claim and ought to be dismissed.

THE COURT: All right. I know your time to respond hasn't fully run yet from the plaintiff's side, Mr. Norris, but do you want to be heard at all today on where you're going with that? I know you touched in your earlier response on the notice letter, not really on the other issues.

MR. NORRIS: Thank you, Your Honor. Just briefly. Your Honor is correct that there have been NVRA cases in the past filed under Section 8, and those cases have been litigated past the 12(b) stage. These are not cases that are normally dismissed for lack of standing.

And one point that I would add to the prior case law, I believe all the NVRA-specific cases that have been cited all predate the Supreme Court's decision in Spokeo, which Your Honor, I'm sure, is familiar with. And in Spokeo the Supreme Court made very clear as a holding for the first time that Congress can actually affect how the Article III inquiry works. And here we have an express cause of action from

Congress that allows individuals to bring claims under Section 8 of the NVRA. That statute says individuals. It allows people like Mr. Daunt to sue if they file the requisite presuit notice letter, as he did.

And as the Court explained in Spokeo, Congress can elevate theories of causation and types of injuries that might not otherwise satisfy Article III and by recognizing those theories can make them satisfy Article III. And we think that's precisely the case with the NVRA.

But even aside from Spokeo, even pre-Spokeo these types of claims are cognizable and plaintiffs have standing to bring them, like Mr. Daunt does.

THE COURT: All right.

MS. BRIGGS: May I respond, Your Honor?

THE COURT: Go ahead. Sure.

MS. BRIGGS: The private cause of action authorized under the NVRA is only available to a person who has been aggrieved, and Mr. Daunt has not shown any way in which he's been aggrieved. Or at least there's not any factual allegation even in the Complaint as amended that supports that.

Secondly, I would point you to page 17 in the State's brief, page ID 320, where we identify and distinguish cases in which -- we distinguish Mr. Daunt's allegations from those in which the Sixth Circuit and the other circuits have found standing in the context of the NVRA. And so we have addressed

that as well, Your Honor.

Mr. Daunt's allegations in his Complaint even as amended don't rise to that level. He's not shown that he's aggrieved.

THE COURT: All right. And anything else, Ms. Brailey?

MS. BRAILEY: Yes, Your Honor. We agree that he has not alleged that he's aggrieved, but on top of that, as we mentioned in our brief on page 3, we also argue that Article III standing is a requirement in and of itself in addition to being aggrieved under the statute. And I would also like to note that, you know, after the response we would like the opportunity to have a reply and we can provide an NVRA-focused brief if that would be helpful to the Court.

THE COURT: All right. Well, I don't think any additional briefing is needed at this stage, to tell you the truth. And, of course, a ruling on a motion under Rule 12 doesn't mean it's the end of the issue. Rule 56 is always there. But for Rule 12 purposes I don't think there's any reason to go forward with further briefing because I think the motions as they stand need to be denied.

I think there's clear standing established as a matter of allegations here and at least a plausible claim stated, which is all that needs to be happening at this stage of the case. And I'll just briefly articulate why I think

that's the case.

The parties are, of course, correct in their briefing that you need under 52 U.S.C. § 2510 a person aggrieved, and then, of course, under Article III of the Constitution somebody is aggrieved that still satisfies the constitutional requirements of standing.

In addition, under the National Voter Registration Act you'd also have to show that the individual involved or the person aggrieved satisfied the notice requirement. I think they are all established here. At least as a matter of pleading. Which doesn't mean that the plaintiff ultimately prevails but does, I think, mean that the plaintiff gets to go beyond where they are right now.

With respect, first of all, to the notice letter, the notice letter is attached to the First Amended Complaint, and it's, in my view, a fairly detailed statement of why the plaintiff thinks that there's a problem with the Michigan voter registration lists and in particular that the defendants haven't followed through on their obligation to come up with under Section 8 an appropriate general program to remove voters that don't belong on the registration list because they have moved or because there has been a death. And I don't think it's incumbent on the plaintiff in a notice letter to say "Here is the existing program of the state and here are the particular flaws in it." I think it is simply incumbent on the

plaintiff to say "Here is why I think there's a problem and why I don't think whatever program you're using, if any, is up to the task."

And certainly on the face of things, at least in Leelanau County if you have more registered voters than eligible voters living, at least based on the census data, a reasonable inference, or at least a plausible inference is there's a problem with the system that's been used to address the voter registration list. And there's additional specific examples given. I don't know if those numbers are going to hold up. I don't know if that's going to be explained in some other fashion. But I do think for purposes of a notice letter as well as the allegations of the First Amended Complaint which largely repeat that detail, there's at least a plausible case for a problem with the Section 8 obligation. And whether or not the State has a program, whether or not it's implemented a program, and whether or not it's reasonable, those are merits issues that, of course, aren't decided today and the plaintiff may ultimately not prevail, but I think they have done enough to get that far.

What the plaintiff's First Amended Complaint includes in addition to what's in the notice letter is additional factual basis that the plaintiff says illustrates the reasons for their concern in terms of the I think it was about 500,000 or so returns that came back when the Secretary of State sent

out the absentee applications earlier. It was after the notice letter but before the First Amended Complaint. And I think that adds to the plausibility for purposes of the 12(b)(6) and also gets into where we'll go next which is whether or not Mr. Daunt is an aggrieved person under the statute and sufficiently pleading a basis for standing with Article III.

I think that Mr. Daunt in the First Amended Complaint really relies on three main categories of injury that he says are concrete and particularized. He is a voter in the state of Michigan. He is concerned about the possibility that his vote would be diluted. But he's not only focused on that. He's also concerned about the general cloud on the outcome of an election if the registration lists aren't properly purged and reflecting somebody -- or a list that's complied with the Section 8 requirement. And he's concerned that he has to spend extra time and effort policing the efforts of the secretary and the director of elections to make sure these lists are where they need to be and to make sure that the voting is coming off properly. And I don't think that matters that he's doing so or alleging his interest in doing so as an individual as opposed to an organization. The fact that he is expressing the same kind of concern that the organization did in the American Civil Rights Union case from the Western District of Texas is, I think, fundamentally the point. And he alleges a plausible basis for why he as an individual voter in the state and active

in Republican politics in his case would be interested and concerned about that, and for purposes of alleging injury I think that's sufficient.

The point that the plaintiff makes about Spokeo and the statutory cause of action is, I think, also important. You know, I think so many of us, both at the bench and the bar, from the Supreme Court point of view look at Spokeo as a case that denied standing on a statutory claim or at least found it inadequate as presently alleged and wanted to go back and have the lower courts review it under the new standard. And so it's easily cited and I think to some extent potentially misunderstood as a case that makes standing unusually difficult for a plaintiff seeking to enforce a private right of action under a congressional statute. But in fact, as the Ninth Circuit found on remand in Spokeo, 867 F.3d. 1108 in 2017, the fact that Congress makes a decision to create a private right of action is something that the Court is obligated under the Supreme Court's decision and then as interpreted now by the circuits, Second Circuit, Ninth Circuit, when the Congress says "We have the following interests," and here we have a variety of interests at issue in the Voter Registration Act, but two of them certainly are concerned with exactly what Mr. Daunt says he's concerned with, the integrity of the electoral process in ensuring that accurate and current voter registration roles are maintained, when Congress lays

those out and says here is a private right of action for a person aggrieved to enforce it, and that person, Mr. Daunt in this case, comes forward, that's close to almost -- I won't say a slam dunk -- but close to saying if not Mr. Daunt, then who? This is exactly the kind of person that Congress had in mind to protect these interests for the reasons that Mr. Daunt articulates in the First Amended Complaint.

The intervenors are here, and I thought their claim for intervention was clear enough because they are concerned with also making sure that the other interests of the National Voter Registration Act are recognized and enforced and that we don't unduly purge voter roles, making it more difficult for eligible citizens to register or to participate in elections. They are both sides of the same coin, and I think this is exactly the way Congress thought the interests would be vindicated and protected on all sides. So for me when you have a congressionally created private right of action like this to address exactly the interests that Mr. Daunt says he's suffering from a fear of losing, you have intervenors on the other side who want to make sure things don't go off the rails in removing people who deserve to be there or discouraging them from registering, we have exactly the interests aligned that I think Congress, first of all, had in mind and that the Supreme Court in Spokeo and the circuits following Spokeo have recognized as part and parcel of what's involved in a statutory

cause of action.

I already touched on the American Civil Rights Union case which I think -- we might have missed something -- but I think it's the only National Voter Registration Act case I saw cited by anybody on the standing issue, did result in standing for the plaintiff, albeit not on every theory advanced but at least on multiple theories. And the only other cases that I saw outside of the NVRA context that talked about general dilution or fear of dilution I think are all readily distinguishable and that none of those arise under a situation like the National Voter Registration Act where Congress has articulated the private right of action and reasons for it.

The other case that I think was referenced of interest in probably the State briefing, it might have been the intervenors, was the Buchholz case from our circuit under the Fair Debt Collection Practices Act where standing was not recognized, but that's a perfect example of where the interests that the party plaintiff was talking about was not within the scope of the cause of action that Congress had set up, and I think in that case the trial court here, Judge Quist, and then the Sixth Circuit affirming him said, "No, that's not right. We don't have Article III standing here even though you might have a technical issue under the statute." And that's because in Buchholz the complaint was that the lawyers were harassing the plaintiff by writing him letters, telling him he had to pay

on a debt that he didn't contest. And undoubtedly that may have created anxiety, but not the kind of anxiety that was at the root of the Fair Debt Collection Practices Act.

And I think in this case the situation is quite different. The concerns that Mr. Daunt articulates around potential for dilution, potential for a cloud on the election, and potential for extra work and resources policing the validity and propriety of the election are exactly interests that are within the scope of the NVRA, just as the interests the intervenors intend to protect are other interests on the other side of the NVRA coin. So from my perspective there is proper notice in advance. There is at least a plausible basis for a cause of action alleged under the National Voter Registration Act and a plausible basis for standing articulated under Article III. So for those reasons I'm going to deny the pending motions to dismiss.

Of course, the parties remain free to raise all these issues as the record develops in addition to the merits, and that's what we'll litigate going forward. But the motions I'm denying today.

The schedule is really not something the parties disagree about very much. At least once the motions are decided. So let me do this: I'll articulate deadlines that I would propose and then see if anybody has comments or objections to that or concerns about it or anything else that

we need to address.

From a scheduling point of view I'd start with paragraph 5 of your Joint Status Report on joinder, and rather than have a specific date, which is pretty early in any case, I'm simply going to say do that by motion if and when a party thinks there's a need to do that, or a stipulation if everybody agrees, but I won't give you a separate date for that.

For discovery overall I'm going to propose June 30 of next year, which is a little longer than you're thinking but I think appropriate. And I'd key a series of expert disclosures off that. If you're going to use an expert on an issue where you have the burden of proof, disclose with reports by March 31. Any other expert you're using disclose by April 30. And if you need a rebuttal expert after that, something surprises you in the April 30 disclosure, disclose with reports by May 15.

We'd give you a motion cutoff of July 31, and then I would set a second Rule 16 sometime after the motions are filed so we can get together, find out what's going to be litigated substantively in those motions, whether there's room at that point for ADR, maybe there is, maybe there isn't, and what else needs to be happening from a scheduling point of view. So those would be the overall deadlines I'd be prepared to set today.

For discovery limits my inclination would be to do

just the generic discovery limits at this point under the rules which would be 10 depositions per side as the current limit with the seven-hour presumptive limit, 25 interrogatories. I think the parties want to limit it to 25 requests for admission. That's fine with me too.

So let me start with the plaintiff, Mr. Norris, concerns, questions, or other things we need to take up from your perspective?

MR. NORRIS: Thank you, Your Honor. I think the only disputed question in the status report was the number of depositions.

THE COURT: Right.

MR. NORRIS: We initially sued several county defendants because that's, you know, the data we have, and the Complaint suggests problems at the county-wide level. And we would like to be able to depose all the county defendants. However, we don't feel strongly about an initial 10 depositions. Perhaps the county defendants are not fruitful avenues for discovery, and maybe we'll find that out. As long as -- I think my colleagues have already expressed to me that if we need additional depositions we can raise that by motion later and they would be accommodating.

THE COURT: Okay. Let's go to Ms. Briggs for the defendants.

MS. BRIGGS: Your Honor, Mr. Norris is correct, we do

believe that 10 depositions is plenty. And with respect to the counties, based on your September order he can submit interrogatories and requests for admission to the counties, and I don't -- it seems to me that whatever information he may need to get from them could be gotten from them in that way. So from our perspective 10 depositions is plenty given this case.

THE COURT: Okay. Ms. Brailey.

MS. BRAILEY: We also agree that 10 depositions is plenty, and we also agree that the federal rule set these limits and we think it's fair to abide by them. And, again, we agree that if we need to reassess down the road we would be amenable to conferencing.

THE COURT: Okay. Ms. Prescott, anything you want to add?

MS. PRESCOTT: No, Your Honor.

THE COURT: All right. Mr. Donnini.

MR. DONNINI: Your Honor, we agree as well, but I don't have anything further to add.

THE COURT: Okay. Well, I'm going to go ahead with the deadlines that I outlined, then, and the discovery limits. It doesn't preclude a motion down the road if the plaintiff says "Hey, I need depositions that go beyond that," or it doesn't preclude the parties from agreeing to that if they see it the same way by that time. But I do think that for starting purposes the presumptive limits make sense here. Even from the

allegations that the plaintiff has in the First Amended Complaint, there's going to be some counties that are more the focus of interest than others. And beyond that, as Ms. Briggs indicates, there are opportunities short of deposition to get information that may satisfy what the parties need or at least provide a basis for the Court down the road to say "Well, I think some additional depositions are needed" or not.

So that's what I'm going to do is stick with the presumptive limits for now. But, of course, anybody is free to either seek protective orders limiting that or adding to that if the facts develop on the ground differently.

From any party's perspective are there other things that should be addressed today? Plaintiff?

MR. NORRIS: No, Your Honor.

THE COURT: Or defense?

MS. BRIGGS: No, Your Honor.

THE COURT: Or intervenors?

MS. BRAILEY: No, Your Honor.

MR. DONNINI: No, Your Honor.

THE COURT: Okay. Thank you all. See you next time.

MS. BRIGGS: Thank you.

THE CLERK: Court is adjourned.

(Proceeding concluded at 4:29 p.m.)

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

Date: November 3, 2020

/s/ Glenda Trexler

Glenda Trexler, CSR-1436, RPR, CRR